

**FILED**

**NOT FOR PUBLICATION**

**JUL 27 2006**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

FLAVIO ESCOBEDO GOMEZ,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 06-70220

Agency No. A79-264-217

MEMORANDUM\*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted July 24, 2006\*\*

Before: ALARCÓN, HAWKINS, and THOMAS, Circuit Judges

Flavio Escobedo Gomez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' denial of his motion to reopen removal proceedings pursuant to 8 C.F.R. § 1003.2. He contends that the Board

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

\*\* This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

erred in concluding that his new evidence concerning his mother was insufficient to meet the hardship requirement for cancellation of removal. We deny the petition for review.

Respondent contends that pursuant to 8 U.S.C. § 1252(a)(2)(B)(i) we lack jurisdiction to review the Board's decision denying the motion to reopen on the basis of a discretionary hardship determination. *See Fernandez v. Gonzales*, 493 F.3d 592, 601 (9th Cir. 2006). Escobedo contends that his new evidence addressed a hardship ground so distinct from that considered previously as to make the motion to reopen a request for new relief. *See id.* at 602-03. At his removal hearing, Escobedo submitted evidence that he assisted his mother by taking her to medical appointments for her diabetes and other conditions and that his brother provided financial support. Escobedo's new evidence, attached to his motion to reopen, showed that his mother now lives with him, and he provides her with financial support.

Insofar as Escobedo's motion to reopen amounted to a request for new relief, we have jurisdiction to consider whether the Board abused its discretion by failing to consider the new information he submitted. *See id.* at 602. The Board's decision shows that it considered Escobedo's new evidence. We therefore deny the petition.

**PETITION FOR REVIEW DENIED.**